

AMENDED IN SENATE JUNE 6, 2016  
AMENDED IN SENATE JUNE 1, 2016  
AMENDED IN SENATE MAY 11, 2016  
AMENDED IN SENATE JULY 16, 2015  
AMENDED IN ASSEMBLY MAY 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1103**

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**Introduced by Assembly Member Dodd**

February 27, 2015

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An act to amend ~~Sections 41821.5 and 41953 of, to amend and renumber Section 41952 of, and to add Section 41952 to, Section 41821.5~~ of the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1103, as amended, Dodd. ~~Solid waste: disposal.~~ *waste disposal: self-haulers.*

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. Existing law requires exporters, brokers, and transporters of recyclables or compost to submit periodic information to the department on the types, quantities, and destinations of materials that are disposed of, sold, or transferred.

This bill would additionally require a ~~self-hauler, as specified,~~ *self-hauler* to submit that information to the ~~department.~~ *department*

*and would require the department to develop regulations that define “self-hauler” to include specified persons and entities.*

~~Existing law prohibits a person, other than an authorized recycling agent, from removing specified materials that have been segregated from solid waste materials and placed at a designated recycling collection location for residential curbside collection programs authorized by a city, county, or local agency for the purposes of collection and recycling or at a designated recycling collection location by any commercial or industrial entity. Existing law authorizes a court, in a civil action by a recycling agent against a person alleged to have violated these laws, to either allow treble damages or award a civil penalty, as specified, against the unauthorized person removing the recyclable material, and to allow treble damages or award a higher civil penalty, as specified, against a person for a second violation and subsequent violations.~~

~~This bill would prohibit a person, subject to these same penalties and damages, from collecting, removing, or transporting solid waste generated by another person on residential, commercial, or industrial premises located within a city, county, or local governmental jurisdiction, except in compliance with applicable law, as defined. The bill would apply those same penalties and damages in any civil action against a person alleged to have violated, or to have knowingly participated in the violation of, the segregated recycling laws specified above. The bill would require a court, if a plaintiff prevails in a civil action brought pursuant to these and related provisions, to award to the plaintiff reasonable attorneys’ fees, expert witness fees, and costs incurred in the course of the litigation.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 41821.5 of the Public Resources Code
- 2 is amended to read:
- 3 41821.5. (a) Disposal facility operators shall submit
- 4 information on the disposal tonnages by jurisdiction or region of
- 5 origin that are disposed of at each disposal facility to the
- 6 department, and to counties that request the information, in a form
- 7 prescribed by the department. To enable disposal facility operators
- 8 to provide that information, solid waste handlers and transfer

1 station operators shall provide information to disposal facility  
2 operators on the origin of the solid waste that they deliver to the  
3 disposal facility.

4 (b) (1) Recycling and composting operations and facilities shall  
5 submit periodic information to the department on the types and  
6 quantities of materials that are disposed of, sold, or transferred to  
7 other recycling or composting facilities, end users inside of the  
8 state or outside of the state, or exporters, brokers, or transporters  
9 for sale inside of the state or outside of the state.

10 (2) Exporters, brokers, self-haulers, and transporters of  
11 recyclables or compost shall submit periodic information to the  
12 department on the types, quantities, and destinations of materials  
13 that are disposed of, sold, or transferred. The department shall  
14 develop regulations implementing this section that define  
15 “self-hauler” to include, at a minimum, a person or entity that  
16 generates and transports, utilizing its own employees and  
17 equipment, more than one cubic yard per week of its own food  
18 waste to a location or facility that is not owned and operated by  
19 that person or entity.

20 (3) The information in the reports submitted pursuant to this  
21 subdivision may be provided to the department on an aggregated  
22 facility-wide basis and may exclude financial data, such as contract  
23 terms and conditions (including information on pricing, credit  
24 terms, volume discounts and other proprietary business terms), the  
25 jurisdiction of the origin of the materials, or information on the  
26 entities from which the materials are received. The department  
27 may provide this information to jurisdictions, aggregated by  
28 company, upon request. The aggregated information, other than  
29 that aggregated by company, is public information.

30 (c) The department shall adopt regulations pursuant to this  
31 section requiring practices and procedures that are reasonable and  
32 necessary to implement this section, and that provide a  
33 representative accounting of solid wastes and recyclable materials  
34 that are handled, processed, or disposed. Those regulations  
35 approved by the department shall not impose an unreasonable  
36 burden on waste and recycling handling, processing, or disposal  
37 operations or otherwise interfere with the safe handling, processing,  
38 and disposal of solid waste and recyclables. The department shall  
39 include in those regulations both of the following:

1 (1) Procedures to ensure that an opportunity to comply is  
2 provided prior to initiation of enforcement authorized by Section  
3 41821.7.

4 (2) Factors to be considered in determining penalty amounts  
5 that are similar to those provided in Section 45016.

6 (d) Any person who refuses or fails to submit information  
7 required by regulations adopted pursuant to this section is liable  
8 for a civil penalty of not less than five hundred dollars (\$500) and  
9 not more than five thousand dollars (\$5,000) for each violation of  
10 a separate provision or, for continuing violations, for each day that  
11 the violation continues.

12 (e) Any person who knowingly or willfully files a false report,  
13 or any person who refuses to permit the department or any of its  
14 representatives to make inspection or examination of records, or  
15 who fails to keep any records for the inspection of the department,  
16 or who alters, cancels, or obliterates entries in the records for the  
17 purpose of falsifying the records as required by regulations adopted  
18 pursuant to this section, is liable for a civil penalty of not less than  
19 five hundred dollars (\$500) and not more than ten thousand dollars  
20 (\$10,000) for each violation of a separate provision or, for  
21 continuing violations, for each day that the violation continues.

22 (f) Liability under this section may be imposed in a civil action,  
23 or liability may be imposed administratively pursuant to this article.

24 (g) (1) Notwithstanding Title 5 (commencing with Section  
25 3426) of Part 1 of Division 4 of the Civil Code and Article 11  
26 (commencing with Section 1060) of Chapter 4 of Division 8 of  
27 the Evidence Code, all records that the facility or operator is  
28 reasonably required to keep to allow the department to verify  
29 information in, or verification of, the reports required pursuant to  
30 subdivisions (a) and (b) and implementing regulations shall be  
31 subject to inspection and copying by the department, but shall be  
32 confidential and shall not be subject to disclosure under the  
33 California Public Records Act (Chapter 3.5 (commencing with  
34 Section 6250) of Division 7 of Title 1 of the Government Code).

35 (2) Notwithstanding Title 5 (commencing with Section 3426)  
36 of Part 1 of Division 4 of the Civil Code and Article 11  
37 (commencing with Section 1060) of Chapter 4 of Division 8 of  
38 the Evidence Code, an employee of a government entity may, at  
39 the disposal facility, inspect and copy records related to tonnage  
40 received at the facility on or after July 1, 2015, and originating

1 within the government entity's geographic jurisdiction. Those  
2 records shall be limited to weight tags that identify the hauler,  
3 vehicle, quantity, date, type, and origin of waste received at a  
4 disposal facility. Those records shall be available to those  
5 government entities for the purposes of subdivision (a) and as  
6 necessary to enforce the collection of local fees, but those records  
7 shall be confidential and shall not be subject to disclosure under  
8 the California Public Records Act (Chapter 3.5 (commencing with  
9 Section 6250) of Division 7 of Title 1 of the Government Code).  
10 Names of haulers using specific landfills shall not be disclosed by  
11 a government entity unless necessary as part of an administrative  
12 or judicial enforcement proceeding to fund local programs or  
13 enforce local franchises.

14 (3) A government entity may petition the superior court for  
15 injunctive or declaratory relief to enforce its authority under  
16 paragraph (2). The times for responsive pleadings and hearings in  
17 these proceedings shall be set by the judge of the court with the  
18 object of securing a decision as to these matters at the earliest  
19 possible time.

20 (4) For purposes of this section, a government entity is an entity  
21 identified in Section 40145 or an entity formed pursuant to Section  
22 40976.

23 (5) For purposes of this subdivision, "disposal" and "disposal  
24 facility" have the same meanings as prescribed by Sections 40120.1  
25 and 40121, respectively.

26 (6) Nothing in this subdivision shall be construed to limit or  
27 expand the authority of a government entity that may have been  
28 provided by this section and implementing regulations as they read  
29 on December 31, 2015.

30 (7) The records subject to inspection and copying by the  
31 department pursuant to paragraph (1) or by an employee of a  
32 government entity pursuant to paragraph (2) may be redacted by  
33 the operator before inspection to exclude confidential pricing  
34 information contained in the records, such as contract terms and  
35 conditions (including information on pricing, credit terms, volume  
36 discounts, and other proprietary business terms), if the redacted  
37 information is not information that is otherwise required to be  
38 reported to the department.

39 (h) Notwithstanding the Uniform Electronic Transactions Act  
40 (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division

1 3 of the Civil Code), reports required by this section shall be  
2 submitted electronically, using an electronic reporting format  
3 system established by the department.

4 (i) All records provided in accordance with this section shall be  
5 subject to Section 40062.

6 ~~SEC. 2. Section 41952 of the Public Resources Code is~~  
7 ~~amended and renumbered to read:~~

8 ~~41957. Nothing in this chapter limits the right of any person~~  
9 ~~to donate, sell, or otherwise dispose of his or her recyclable~~  
10 ~~materials.~~

11 ~~SEC. 3. Section 41952 is added to the Public Resources Code,~~  
12 ~~to read:~~

13 ~~41952. No person shall collect, remove, or transport solid waste~~  
14 ~~generated by another person on residential, commercial, or~~  
15 ~~industrial premises located within a city, county, or local~~  
16 ~~governmental jurisdiction, except in compliance with applicable~~  
17 ~~law. For purposes of this section, “applicable law” includes, but~~  
18 ~~is not limited to, a municipal ordinance regulating the handling of~~  
19 ~~solid waste.~~

20 ~~SEC. 4. Section 41953 of the Public Resources Code is~~  
21 ~~amended to read:~~

22 ~~41953. (a) In any civil action by a person, including, but not~~  
23 ~~limited to, a local governmental agency or its recycling agent,~~  
24 ~~against a person alleged to have violated Section 41950 or 41951,~~  
25 ~~or by a person, including, but not limited to, a local governmental~~  
26 ~~agency or a solid waste enterprise authorized by the local~~  
27 ~~governmental agency to handle solid waste, against a person~~  
28 ~~alleged to have violated, or to have knowingly participated in the~~  
29 ~~violation of, Section 41952, the court may either allow treble~~  
30 ~~damages, as measured by the market value of the recyclable~~  
31 ~~material removed, or award a civil penalty of not more than two~~  
32 ~~thousand dollars (\$2,000), whichever is greater, for each~~  
33 ~~unauthorized removal, against the unauthorized person removing~~  
34 ~~the recyclable material or solid waste.~~

35 ~~(b) In any civil action by a person, including, but not limited~~  
36 ~~to, a local governmental agency or its recycling agent, against a~~  
37 ~~person alleged to have violated Section 41950 or 41951, or by a~~  
38 ~~person, including, but not limited to, a local governmental agency~~  
39 ~~or a solid waste enterprise authorized by the local governmental~~  
40 ~~agency to handle solid waste, against a person alleged to have~~

1 ~~violated, or to have knowingly participated in the violation of,~~  
2 ~~Section 41952, for a second, or subsequent, time in any 12-month~~  
3 ~~period, the court may either allow treble damages, as measured by~~  
4 ~~the market value of the recyclable material removed, or award a~~  
5 ~~civil penalty of not more than five thousand dollars (\$5,000),~~  
6 ~~whichever is greater, for each unauthorized removal against the~~  
7 ~~unauthorized person removing the recyclable material or solid~~  
8 ~~waste.~~

9 ~~(e) If a plaintiff prevails in a civil action brought pursuant to~~  
10 ~~this chapter, the court shall award to the plaintiff reasonable~~  
11 ~~attorneys' fees, expert witness fees, and costs incurred in the course~~  
12 ~~of the litigation.~~

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